

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 50

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE AMERICAN INDIAN  
POST-SECONDARY EDUCATION ACT; CREATING A DIVISION IN THE HIGHER  
EDUCATION DEPARTMENT; PROVIDING POWERS AND DUTIES; CREATING A  
FUND; AUTHORIZING MEMORANDA OF UNDERSTANDING BETWEEN THE  
DEPARTMENT AND TRIBAL COLLEGES AND FEDERAL BUREAU OF INDIAN  
EDUCATION SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-25-4 NMSA 1978 (being Laws 2005,  
Chapter 289, Section 4, as amended) is amended to read:

"9-25-4. DEPARTMENT CREATED.--

A. The "higher education department" is created in  
the executive branch. The department is a cabinet department  
and includes the following divisions:

(1) the administrative services division;

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- 1 (2) the planning and research division;  
2 (3) the financial aid division;  
3 (4) the public information and communications  
4 division;  
5 (5) the adult basic education division;  
6 (6) the information technology division;  
7 (7) the private and proprietary schools  
8 division; [~~and~~]  
9 (8) the public schools liaison division; and  
10 (9) the American Indian post-secondary  
11 education division.

12 B. The secretary may organize the department and  
13 divisions of the department and may transfer or merge functions  
14 between divisions and bureaus in the interest of efficiency and  
15 economy."

16 Section 2. [NEW MATERIAL] SHORT TITLE.--Sections 2  
17 through 7 of this act may be cited as the "American Indian  
18 Post-Secondary Education Act".

19 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 American Indian Post-Secondary Education Act:

21 A. "bureau of Indian education school" means a  
22 school located in New Mexico that is under the control of the  
23 bureau of Indian education of the United States department of  
24 the interior;

25 B. "department" means the higher education

1 department;

2 C. "division" means the American Indian post-  
3 secondary education division of the department;

4 D. "fund" means the American Indian post-secondary  
5 education fund;

6 E. "public post-secondary educational institution"  
7 means an institution of higher education delineated in Article  
8 12, Section 11 of the constitution of New Mexico or a community  
9 college, branch community college or technical and vocational  
10 institute organized pursuant to Chapter 21, Article 13, 14 or  
11 16 NMSA 1978;

12 F. "secretary" means the secretary of higher  
13 education;

14 G. "tribal college" means a tribally, federally or  
15 congressionally chartered post-secondary educational  
16 institution located within New Mexico that is accredited by the  
17 north central association of colleges and schools; and

18 H. "tribe" means an Indian nation, tribe or pueblo  
19 located within New Mexico.

20 Section 4. [NEW MATERIAL] DEPARTMENT RULES--MEMORANDA OF  
21 UNDERSTANDING.--

22 A. The department shall consult with tribes, bureau  
23 of Indian education schools and tribal colleges when adopting  
24 rules to carry out the provisions of the American Indian Post-  
25 Secondary Education Act.

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1           B. The secretary may enter into memoranda of  
2 understanding with tribal colleges, bureau of Indian education  
3 schools and tribes for data collection and data sharing and for  
4 other matters related to implementation of the American Indian  
5 Post-Secondary Education Act.

6           Section 5. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY  
7 EDUCATION DIVISION DUTIES.--

8           A. The division shall:

9                   (1) develop and implement policies that  
10 positively affect the post-secondary educational success of  
11 American Indian students;

12                   (2) provide assistance to public post-  
13 secondary educational institutions and tribal colleges in the  
14 planning, development, implementation and evaluation of  
15 recruitment and retention strategies designed for American  
16 Indian college students;

17                   (3) seek funding to assist public educational  
18 institutions and tribal colleges as needed to develop support  
19 services to increase the enrollment, retention and graduation  
20 rates of American Indians at public post-secondary educational  
21 institutions and tribal colleges, including:

22                           (a) academic support and transition  
23 programs; and

24                           (b) institutional efforts to increase  
25 academic financial support;

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1 (4) develop a system for consistent data  
2 collection and sharing on the enrollment, retention and  
3 graduation rates of American Indian students at public post-  
4 secondary educational institutions and tribal colleges; and

5 (5) conduct outreach to tribes concerning  
6 financial aid opportunities for American Indian students.

7 B. The director of the division shall serve as a  
8 liaison with the Indian education advisory council.

9 Section 6. [NEW MATERIAL] REPORTS.--

10 A. Each public post-secondary educational  
11 institution shall submit an annual American Indian post-  
12 secondary education status report to the division. The  
13 department may enter into agreements with tribal colleges to  
14 provide the same annual status reports. The status reports  
15 shall be submitted in a form prescribed by the division and  
16 shall include the following information through which American  
17 Indian post-secondary educational performance is measured and  
18 aligned with the higher education strategic priorities:

- 19 (1) student recruitment;  
20 (2) student retention;  
21 (3) student attrition;  
22 (4) remediation needs, by course type;  
23 (5) graduation rate and types and fields of  
24 degrees;  
25 (6) student financial aid data, including

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1 student demographic data; and

2 (7) annual goals and objectives of American  
3 Indian education programs, including graduate-level  
4 participation by American Indians.

5 B. The division shall compile the data collected  
6 pursuant to Subsection A of this section and publish an annual  
7 state American Indian post-secondary education status report.

8 Section 7. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY  
9 EDUCATION FUND CREATED--GRANTS--APPLICATIONS.--

10 A. The "American Indian post-secondary education  
11 fund" is created as a nonreverting fund in the state treasury.  
12 The fund consists of appropriations, gifts, grants, donations  
13 and income from investment of the fund. The fund shall be  
14 administered by the department, and money in the fund is  
15 appropriated to the department to carry out the purposes of the  
16 American Indian Post-Secondary Education Act. Disbursements  
17 from the fund shall be by warrant of the secretary of finance  
18 and administration pursuant to vouchers signed by the secretary  
19 of higher education or the secretary's authorized  
20 representative.

21 B. Grants may be awarded for special projects  
22 related to recruitment, retention and graduation of American  
23 Indian students, including student conferences, cultural  
24 awareness training for faculty and staff at public post-  
25 secondary educational institutions and tribal colleges,

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1 academic support and transition programs and other projects  
2 approved by the division.

3 C. Applications for grants shall be in the form  
4 prescribed by the division. The division, with the secretary's  
5 approval, shall promulgate rules on the grant application and  
6 award process, including:

- 7 (1) who may apply for grants;
- 8 (2) information required in the application  
9 process;
- 10 (3) how applications will be evaluated and  
11 awarded;
- 12 (4) accounting and financial reporting  
13 requirements for grantees;
- 14 (5) reporting requirements on the use of a  
15 grant and the outcomes of the special project funded by the  
16 grant; and
- 17 (6) any other information deemed necessary by  
18 the division.